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TAGS: [ECON](#) [EFIN](#) [EFTA](#) [ELAB](#) [ETRD](#) [PGOV](#) [PM](#) [PREL](#)  
SUBJECT: PANAMA FTA LABOR REFORMS: TIME IS TICKING AWAY.

REF: A. PANAMA 439  
[B](#). PANAMA 454

Classified By: AMBASSADOR BARBARA J. STEPHENSON FOR REASONS 1.4(b) & (d).

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SUMMARY  
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[1](#)1. (C) President Torrijos issued four executive decrees on June 5 to bring the Panamanian labor code into alignment with International Labor Organization (ILO) standards, as he continues his attempt to fulfill his Free Trade Agreement (FTA)-related promises to the Obama Administration. However, the Torrijos Administration still needs to implement further labor reforms. Unfortunately, his administration is almost a completely spent force with only two weeks left in office and there is political sentiment by business elites and segments of the public that the Americans are unfairly moving the goalposts by insisting on labor and other reforms. After broadcasting discouraging signals, the incoming Martinelli Administration is sending a more reassuring message, albeit quietly, on playing a constructive role on labor reforms. Another labor vote in the lame duck National Assembly has created one final opportunity to pass labor reform legislation, if the outgoing Torrijos and incoming Martinelli Administrations have the shared will to shepherd these measures through the National Assembly. Post will continue to advocate that the Torrijos Administration, with support from the incoming Martinelli Administration, complete all labor reforms that were discussed between USTR and the Torrijos Administration.

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SOME LABOR ISSUES RESOLVED  
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[1](#)2. (SBU) President Torrijos issued four executive decrees on June 5 to bring the Panamanian labor code further into alignment with ILO standards, a key precondition for FTA passage in the U.S. Congress. Combined with the three labor-related executive decrees from May 20 (see ref B), the Torrijos Administration has responded to five of the nine primary labor issues discussed between USTR and the GOP. Of the June 5 decrees, the first provides for an inspection and enforcement system to inhibit the use of temporary workers as a substitute for permanent workers. The second and third limit the scope of strike restrictions on essential services in transportation. The fourth protects employees against employer interference with union rights, including employer

directed unions and the misclassification of "confidence" workers. Confidence workers are high-level executive and managerial workers that are exempt from the labor code.

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OPPORTUNITY ON RESOLVING  
OUTSTANDING LABOR ISSUES  
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13. (SBU) The four outstanding labor issues remaining are: reducing the minimum number of workers to form a union from 40 to 20, providing for workers to collectively bargain in the first two years of a business's existence, changing various labor provisions in the Export Processing Zone labor code, and precisely applying the labor code to Maritime workers. The first issue will require legislative changes to the politically sensitive labor code and the next two issues will require legislative changes to other laws. A decree can clarify the application of the labor code to Maritime workers. The window for labor legislation is closing rapidly for the Torrijos Administration. Torrijos dejected from a bruising electoral defeat in the May 3 election and poisonous infighting in Torrijos's PRD party, squandered the last two legislative vehicles (an increase in the cap on the budget deficit and limiting pay for National Assembly deputies to the length of their term) that could have been used to pass the necessary labor reforms. However, President Torrijos recently decided to appoint four union leaders to the Board of the Social Security Administration before he leaves office. The appointments must be approved before the PRD controlled National Assembly adjourns for the last time on June 30. These appointments may provide the last opportunity to pass FTA related labor legislation during the Torrijos Administration. However, Torrijos is unlikely to weigh down passage of his appointment with difficult labor reforms attached.

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RELUCTANT TORRIJOS  
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14. (C) The Torrijos Administration has enacted the measures that are "relatively easy," since there is building pressure from business and labor organizations against perceived concessions to the Americans. See ref A. Many in the public view the labor reforms as being imposed by the United States Government, an infringement of Panamanian dignity, and adding extra conditions after negotiating the FTA in good faith. Labor unions, some of whom were supporters of the FTA, recently opposed the labor decrees and proposed legislation, especially changes to the near sacrosanct labor code. See ref A. The labor unions generally view the reforms enacted thus far as neutral or marginally positive to their vital interests, but fear opening a Pandora's Box of broader labor changes sponsored by the business community. For instance, Panama's business community has long sought to change the law that allows enterprise at which there is a strike to be shut down. Labor leaders, in contrast, view this law as a vital tool to satisfy worker demands. On June 12, ECON Counselor met with Mariano Mena, General Secretary of the Confederation General of Workers of Panama, which covers 54,000 Panamanian workers. While Mena endorsed the idea of decrees that advance Panamanian compliance with ILO norms, he opposes changes made for the sake of the FTA (although the FTA requires basic ILO compliance, Mena does not view trade as a legitimate vehicle for advancing labor rights). He expressed alarm about the labor environment in the Martinelli Administration (including the Martinelli-led majority alliance in the incoming National Assembly), especially efforts by Martinelli's key constituency - business - to change the labor code.

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MARTINELLI - MIXED MESSAGES  
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15. (C) Martinelli and his closest advisors have stated they will not spend political capital to push for FTA related

labor reforms. See ref B. Labor Minister designate Alma Cortes announced on June 11 that "What I can assure you is that at this time (labor reforms) are not on the new government's agenda." However, Vice-President and Foreign Minister designate Varela told the Ambassador on June 17 that Martinelli designated officials have been sharing "personal and undisciplined musings" on the FTA and potential reforms. He assured the Ambassador that "the Martinelli Administration is committed to doing whatever it takes to get to a completed FTA." Varela added that it is much easier to sell the reforms in the guise of general ILO compliance rather than explicitly tied to the FTA. He told the Ambassador that he would be in contact with the Torrijos government to coordinate FTA measures. He specifically wants the union friendly Torrijos Administration to pass all the labor reforms in the next two weeks and promised political support in the National Assembly. Thus, post will continue to advocate that the Torrijos Administration in their remaining two weeks complete all labor reforms that were discussed between USTR and the Torrijos Administration. The position of President Torrijos as of June 18 is that further labor reforms are simply politically impossible.

STEPHENSON